

# STATE OF COLORADO

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## Colorado Water Conservation Board

### Department of Natural Resources

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[www.cwcb.state.co.us](http://www.cwcb.state.co.us)



May 30, 2013

Mr. John Sanderson, Director  
Ms. Diana McDonald  
The Nature Conservancy  
2424 Spruce Street  
Boulder CO 80302

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John W. Hickenlooper  
Governor

Mike King  
DNR Executive Director

Jennifer L. Gimbel  
CWCB Director

**RE: Notice to Proceed – Amendment #1 - Alt Ag Grant – Use of ATM's to Meet  
Nonconsumptive and Consumptive Needs in the Yampa Basin**

Dear John and Diana,

This letter is to inform you that the contract amendment to assist in the Use of ATM's to Meet Nonconsumptive and Consumptive Needs in the Yampa River Basin was signed on May 29, 2013. The original signed contracts will be mailed to you.

With the executed contract amendment, you are not able to proceed with the project and continue invoicing the State of Colorado for cost incurred through December 31, 2013. Upon receipt of your invoice(s), the State of Colorado will provide payment no later than 45 days. I wish you much success in your project.

Sincerely,

**Todd Doherty, Program Manager**  
**Water Supply Planning Section**  
**Colorado Water Conservation Board (CWCB)**

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# CONTRACT AMENDMENT

<b>Amendment #1 C150491</b>	<b>Original Contract CMS # 39472</b>	<b>Amendment CMS # 56135</b>
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**1) PARTIES**

This Amendment to the above-referenced Original Contract (hereinafter called the Contract) is entered into by and between The Nature Conservancy (hereinafter called "Contractor"), and the STATE OF COLORADO (hereinafter called the "State") acting by and through the Department of Natural Resources, Colorado Water Conservation Board, (hereinafter called the "CWCB").

**2) EFFECTIVE DATE AND ENFORCEABILITY**

This Amendment shall not be effective or enforceable until it is approved and signed by the Colorado State Controller or designee (hereinafter called the "Effective Date"), but shall be effective and enforceable thereafter in accordance with its provisions. The State shall not be liable to pay or reimburse Contractor for any performance hereunder, including, but not limited to costs or expenses incurred, or be bound by any provision hereof prior to the Effective Date.

**3) FACTUAL RECITALS**

The Parties entered into the Contract for/to the Alternative Agricultural Water Transfer Methods Competitive Grant Program to complete water activities that further the understanding and development of alternative agricultural water transfers in Colorado. This Grant is for a project titled: Use of ATM's to Meet Nonconsumptive and Consumptive Needs in the Yampa Basin.

**4) CONSIDERATION**

Consideration for this Amendment consists of the payments to be made hereunder and the obligations, promises, and agreements herein set forth.

**5) LIMITS OF EFFECT**

This Amendment is incorporated by reference into the Contract, and the Contract and all prior amendments thereto, if any, remain in full force and effect except as specifically modified herein.

**6) MODIFICATIONS.**

The Contract and all prior amendments thereto, if any, are modified as follows:

**a. 5. TERM and EARLY TERMINATION is amended to read as follows:** "The Parties respective performance under this Grant shall commence on the Effective Date. This Grant shall terminate on December 31, 2013 unless sooner terminated or further extended as specified elsewhere herein.

**b. 6. a. Completion:** Grantee shall complete the Work and its other obligations as described herein and in the Exhibit A on or before December 31, 2013. The State shall not be liable to compensate Grantee for any Work performed prior to the Effective Date or after the termination of this Grant

**c. 7.a** The maximum amount payable by the State to Grantee during each State fiscal year of this Grant shall be

<b>\$132,000 in FY2012</b>
<b>\$132,000 in FY2013, minus any funds expended in FY2012</b>
<b>\$132,000 in FY2014, minus any funds expended in FY2012, and FY2013</b>

**d.** The Schedule that was included in the Original Contract's Scope of Work shall be replaced by the updated schedule attached hereto as **Schedule B**.

**7) EFFECTIVE DATE OF AMENDMENT**

The effective date hereof is upon approval of the State Controller or their delegate.

**8) ORDER OF PRECEDENCE**

Except for the Special Provisions, in the event of any conflict, inconsistency, variance, or contradiction between the provisions of this Amendment and any of the provisions of the Contract, the provisions of this Amendment shall in all respects supersede, govern, and control. The most recent version of the Special Provisions incorporated into the Contract or any amendment shall always control other provisions in the Contract or any amendments.

**9) AVAILABLE FUNDS**

Financial obligations of the state payable after the current fiscal year are contingent upon funds for that purpose being appropriated, budgeted, or otherwise made available.

**THE PARTIES HERETO HAVE EXECUTED THIS AMENDMENT**

\* Persons signing for Contractor hereby swear and affirm that they are authorized to act on Contractor's behalf and acknowledge that the State is relying on their representations to that effect.

**CONTRACTOR**  
The Nature Conservancy

By (Print): Luann Rudolph  
Title: Grants Specialist

[Signature]  
\*Signature

Date: 5/10/13

**STATE OF COLORADO**

**John W. Hickenlooper, GOVERNOR**  
Mike King, Department of Natural Resources

By: Rebecca Mitchell

By: Rebecca Mitchell, Section Chief,  
Water Supply Planning Section, CWCB  
Signatory avers to the State Controller or delegate that  
Grantee has not begun performance or that a Statutory  
Violation waiver has been requested under Fiscal Rules

Date: 5-16-13

**ALL CONTRACTS REQUIRE APPROVAL BY THE STATE CONTROLLER**

CRS §24-30-202 requires the State Controller to approve all State Contracts. This Contract is not valid until signed and dated below by the State Controller or delegate. Contractor is not authorized to begin performance until such time. If Contractor begins performing prior thereto, the State of Colorado is not obligated to pay Contractor for such performance or for any goods and/or services provided hereunder.

**STATE CONTROLLER**

Robert Jaros, CPA, MBA, JD

By: [Signature]

Name and Title: Susan Borup, DNR Controller

Date: 5/29/13

## SCHEDULE B

**Project:** Use of ATMs to meet nonconsumptive and consumptive needs in the Yampa River Basin

**Contract Number: C150491**

**Project Schedule** (revised May 2013):

[illegible]